



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2015-0398; FRL-9942-15-Region 10]

Approval of Regional Haze BART Alternative Measure: Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve the Best Available Retrofit Technology (BART) alternative measure for the BP Cherry Point Refinery located near Ferndale, Washington. The BART alternative measure increases the oxides of nitrogen (NO_x) emission limit from the R-1 HC Reactor Heater (R-1 Heater), a BART-eligible source currently subject to BART emission limits on NO_x. To offset the increase in NO_x emissions from this emission unit, the NO_x emission limits on the 1st Stage Hydrocracker Fractionator Reboiler (R-1 Reboiler), also a BART-eligible source subject to BART emission limits on NO_x, will be reduced. The net effect of these changes is a decrease of 10.4 tons per year (tpy) of allowable NO_x emissions from sources subject to BART at the BP Cherry Point Refinery.

DATES: This final rule is effective **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-EPA-R10-OAR-2015-0398. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information the disclosure of

which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and is publicly available only in hard copy form. Publicly available docket materials are available at <http://www.regulations.gov> or at EPA Region 10, Office of Air, Waste and Toxics, 1200 Sixth Avenue, Seattle, Washington 98101. The EPA requests that you contact the person listed in the FOR FURTHER INFORMATION CONTACT section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: For information please contact John Chi at (206) 553-1185, or chi.john@epa.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Background Information
- II. Final Action
- III. Incorporation by Reference
- IV. Statutory and Executive Orders Review

I. Background Information

On May 14, 2015, Washington submitted the BART alternative measure and the EPA proposed to approve it on November 16, 2015 (80 FR 70718). An explanation of the CAA requirements, a detailed analysis of the submittal, and the EPA's reasons for approval were provided in the notice of proposed rulemaking, and will not be restated here. The public comment period for this proposed rule ended on December 16, 2015. The EPA received one comment in support of this action and no adverse comments.

II. Final Action

The EPA is approving the BART alternative measure for the BP Cherry Point Refinery

located near Ferndale, Washington by incorporating by reference the conditions of Revision 2 identified below. The EPA is removing the BP Cherry Point Refinery, BART Compliance Order No. 7836 currently in the Federally approved SIP at 40 CFR 52.2470(d) and replacing it with provisions of the BP Cherry Point Refinery, BART Compliance Order No. 7836 Revision 2. The EPA is also approving new Condition 9 of the BART Compliance Order 7836 Revision 2 relating to decommissioned units. The conditions of the BP BART Compliance Order Revision 2 that are proposed for incorporation by reference are:

Condition 1: 1.1, 1.1.1, 1.2, 1.2.1, 1.2.2;

Condition 2: 2.1, 2.1.1, 2.1.2, 2.1.3, 2.1.4, 2.1.5, 2.2, 2.2.1, 2.2.2, 2.3, 2.3.1, 2.3.2,

2.4, 2.4.1, 2.4.2, 2.4.2.1, 2.5, 2.5.1, 2.5.1.1, 2.5.1.2, 2.5.2, 2.5.3, 2.5.4, 2.6, 2.6.1, 2.6.2, 2.6.3, 2.7

Condition 3, 3.1, 3.1.1, 3.1.2, 3.2, 3.2.1, 3.2.2, 3.2.3, 3.2.4;

Condition 4, 4.1, 4.1.1, 4.1.1.1, 4.1.1.2, 4.1.1.3, 4.1.1.4;

Condition 5, 5.1, 5.2;

Condition 6, 6.1, 6.2, 6.3;

Condition 7; and

Condition 9.

III. Incorporation by Reference

In accordance with requirements of 1 CFR 51.5, the EPA is revising our incorporation by reference located in 40 CFR 52.2470(d) – “EPA-Approved State Source-Specific Requirements” to reflect the approval of the BART alternative measure for the BP Cherry Point Refinery and the provision relating to decommissioned units. Due to the fact that the conditions in the original BART Order were renumbered in Revision 1, which was not submitted as a SIP revision, the

EPA is removing the original IBR entry for “BP Cherry Point Refinery” in its entirety and incorporating in its place the specified conditions of Revision 2 included in the docket for this action. The end result is that all of the conditions in the Original BART order remain in the SIP (but with different numbers) except as discussed in the notice of the proposed rulemaking with respect to the BART alternative measure and the addition of Condition 9. The EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

IV. Statutory and Executive Orders Review

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because this action does not involve technical standards; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land in Washington except as specifically noted below and is also not approved to apply in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take

effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: January 27, 2016.

Dennis J. McLerran,
Regional Administrator,
Region 10.

For the reasons set forth in the preamble, 40 CFR part 52 is amended as follows:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart WW – Washington

2. In § 52.2470:

a. In paragraph (d), the table is amended by revising the entry for “BP Cherry Point Refinery.”

b. In paragraph (e), table 2 is amended by adding an entry entitled “Regional Haze State Implementation Plan – BP Cherry Point Refinery BART Revision” to the end of the table.

The revisions read as follows:

§ 52.2470 Identification of plan.

* * * * *

(d) * * *

EPA-Approved State of Washington Source-Specific Requirements

Name of source	Order/Permit number	State effective date	EPA Approval date	Explanation
* * * * *				
BP Cherry Point Refinery	Administrative Order No. 7836, Revision 2	5/13/15	[Insert <u>Federal Register</u> publication date] [Insert <u>Federal Register</u> citation]	The following conditions: 1.1, 1.1.1, 1.2, 1.2.1, 1.2.2, 2.1, 2.1.1, 2.1.2, 2.1.3, 2.1.4, 2.1.5, 2.2, 2.2.1,

				2.2.2, 2.3, 2.3.1, 2.3.2, 2.4, 2.4.1, 2.4.2, 2.4.2.1, 2.5, 2.5.1, 2.5.1.1, 2.5.1.2, 2.5.2, 2.5.3, 2.5.4, 2.6, 2.6.1, 2.6.2, 2.6.3, 2.7, 2.7.1, 2.7.2, 2.7.3, 2.7.4, 2.8, 2.8.1, 2.8.2,2.8.3, 2.8.4, 2.8.5, 2.8.6, 3, 3.1, 3.1.1, 3.1.2, 3.2, 3.2.1, 3.2.2, 3.2.3, 3.2.4, 4, 4.1, 4.1.1, 4.1.1.1, 4.1.1.2, 4.1.1.3, 4.1.1.4, 5, 5.1, 5.2, 6, 6.1, 6.2, 6.3, 7, 9			
	*	*	*	*	*	*	*

(e) * * *

TABLE 2 – ATTAINMENT, MAINTENANCE, AND OTHER PLANS

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Comments
	*	*	*	*
Regional Haze State Implementation Plan – BP Cherry Point Refinery BART Revision	Statewide	5/14/15	[Insert <u>Federal Register</u> publication date] [Insert <u>Federal Register</u>	

			citation]	
--	--	--	-----------	--

[FR Doc. 2016-02953 Filed: 2/12/2016 8:45 am; Publication Date: 2/16/2016]